

REMARKS

Claims 15-31 are pending.

Claims 1-14 have been cancelled without prejudice.

New claims 15-31 have been added, but incorporate no new matter. Support for the new claims is found at least in claims 1-14 as originally filed.

In the January 22nd Office Action the Examiner stated that claims 4, 5, 8, 9, and 10 each contained allowable subject matter and would be allowable if the § 112 rejections were overcome and the claims were re-written to include the subject matter of the claim(s) from which each depends.

I. Drawings.

The Examiner has objected to Fig. 9 based on the M.P.E.P. provision requiring drawings illustrating the prior art to be designated as such. A replacement sheet Fig. 9 has been submitted; it has been amended only to insert the legend "Prior Art." The replacement sheet Fig. 9 incorporates no new matter. Support is found in the specification at least at page 4, lines 24-26 and page 11, lines 6-8.

II. Claim Objections.

The Examiner has objected to claims 1 and 8 for several informalities. Although claims 1 and 8 have been cancelled, the informalities have been corrected in those relevant portions of the text that are present in new claims 15-31.

Accordingly, it is requested that the Examiner withdraw the objections and not apply them to the new claims.

III. Rejection Under 35 U.S.C. § 112, Second Paragraph - - Indefiniteness.

The Examiner has rejected claims 1-14 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

Specifically, the Examiner has rejected claim 1 for recitation of the allegedly indefinite phrases:

- (i) "in an area from one end of the filter . . . to the other end of the filter . . ." and
- (ii) "a cover member . . . electrode system."

Claim 1 has been cancelled. However, with respect to point (i), the Examiner's suggestions have been adopted in the new claims where the relevant text is present, *e.g.*, claims 15 and 25. With regard to point (ii), the new claims use language that further clarifies that the phrase "in the sample supply pathway" is intended to modify "a filter."

Accordingly, the Examiner's rejections under 35 U.S.C. § 112, second paragraph, are no longer applicable. It is requested that they be withdrawn and not applied to the new claims.

IV. Rejection under 35 U.S.C. § 102 Based Upon U.S. Patent No. 5,779,867.

The Examiner has rejected claims 1-3, 6, and 7 under 35 U.S.C. § 102(b) asserting that they are anticipated by U.S. Patent No. 5,779,867 of Shieh.

The applicants traverse the rejection and request that it not be applied to any of the new claims.

As noted above, the Examiner has found claims 4, 5, 8, 9, and 10 to be drawn to allowable subject matter. New claim 15 incorporates the claim elements previously recited in claim 4. Similarly, new claim 24 incorporates the elements previously recited in claim 8. The remaining new claims 16-23 and 25-31 are each dependent (directly or indirectly) from claim 15 or 24. Accordingly, it is submitted that all pending claims now contain allowable subject matter.

It is requested that the Examiner withdraw the 35 U.S.C. § 102(b) rejection based upon Shieh and not apply to the new claims.

V. Conclusion.

It is submitted that the pending claims meet all criteria for patentability and are distinguished over the cited prior art. The Examiner's reconsideration of the rejections and allowance of the claims at the earliest opportunity are earnestly solicited.

Respectfully submitted,

Tomohiro YAMAMOTO, *et al.*

21 April 2004
(Date)

Kristyne A. Bullock
Kristyne A. Bullock
Attorney for Applicants
Registration No. 42,371
Direct Dial: 215-965-1348
E-Mail: kbullock@akingump.com

Akin Gump Strauss Hauer & Feld LLP
One Commerce Square
2005 Market Street, Suite 2200
Philadelphia, PA 19103
Telephone No.: 215-965-1200
Fax No.: 215-965-1210

KAB/cmb

Enclosures: *Replacement Sheet (Figure 9)*
7182466